



1784CV04020 Romero, Marta et al vs. McCormick & Schmick Restaurant Corp doing business as  
McCormick k& Schmicks Seafood Restaurant

<b>CASE TYPE:</b>	Torts	<b>FILE DATE:</b>	12/12/2017
<b>ACTION CODE:</b>	B22	<b>CASE TRACK:</b>	F - Fast Track
<b>DESCRIPTION:</b>	Employment Discrimination		
<b>CASE DISPOSITION DATE</b>	02/23/2018	<b>CASE STATUS :</b>	Closed
<b>CASE DISPOSITION:</b>	Transferred to another Court	<b>STATUS DATE :</b>	02/23/2018
<b>CASE JUDGE:</b>		<b>CASE SESSION:</b>	Civil F

LINKED CASE

PARTIES

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569045



## Docket Report

**Plaintiff**

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## Docket Report

<b>Plaintiff</b> Fuentes, Gladys	<div data-bbox="841 262 1177 506"><b>564158</b> Stephen S Churchill Fair Work, P.C. Fair Work, P.C. 192 South St Suite 450 Boston, MA 02111 Work Phone (617) 607-3260 Added Date: 12/12/2017</div> <div data-bbox="841 552 1409 827"><b>684541</b> Sophia L Hall Lawyers' Committee for Civil Rights &amp; Economic Jus Lawyers' Committee for Civil Rights &amp; Economic Jus 61 Batterymarch St 5th Floor Boston, MA 02110 Work Phone (617) 984-0274 Added Date: 12/12/2017</div> <div data-bbox="841 873 1177 1117"><b>688294</b> Rachel Smit Fair Work, P.C. Fair Work, P.C. 192 South St Suite 450 Boston, MA 02111 Work Phone (617) 841-8188 Added Date: 12/12/2017</div> <div data-bbox="841 1163 1256 1407"><b>569045</b> Oren Sellstrom Lawyers' Committee for Civil Rights Lawyers' Committee for Civil Rights 61 Batterymarch St 5th Fl Boston, MA 02110 Work Phone (617) 988-0608 Added Date: 12/12/2017</div>
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## Docket Report

<b>Plaintiff</b> Romero, Marta	<div data-bbox="841 262 1177 508"><p>Stephen S Churchill Fair Work, P.C. Fair Work, P.C. 192 South St Suite 450 Boston, MA 02111 Work Phone (617) 607-3260 Added Date: 12/12/2017</p></div> <div data-bbox="841 550 1409 829"><p>Sophia L Hall Lawyers' Committee for Civil Rights &amp; Economic Jus Lawyers' Committee for Civil Rights &amp; Economic Jus 61 Batterymarch St 5th Floor Boston, MA 02110 Work Phone (617) 984-0274 Added Date: 12/12/2017</p></div> <div data-bbox="841 871 1177 1117"><p>Rachel Smit Fair Work, P.C. Fair Work, P.C. 192 South St Suite 450 Boston, MA 02111 Work Phone (617) 841-8188 Added Date: 12/12/2017</p></div> <div data-bbox="841 1159 1258 1407"><p>Oren Sellstrom Lawyers' Committee for Civil Rights Lawyers' Committee for Civil Rights 61 Batterymarch St 5th Fl Boston, MA 02110 Work Phone (617) 988-0608 Added Date: 12/12/2017</p></div>
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**Plaintiff**

Santos, Fabiana

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## Docket Report

<b>Defendant</b> McCormick & Schmick Restaurant Corp doing business as McCormick k& Schmicks Seafood Restaurant	Daniel S Field Morgan, Brown & Joy Morgan, Brown & Joy 200 State St Boston, MA 02109 Work Phone (617) 788-5016 Added Date: 02/21/2018	<b>560096</b>
	Allison Cherundolo Morgan Brown & Joy LLP Morgan Brown & Joy LLP 200 State St 11th Floor Boston, MA 02109 Work Phone (617) 523-6666 Added Date: 02/21/2018	<b>681632</b>



## INFORMATIONAL DOCKET ENTRIES

Date	Ref	Description	Judge
12/12/2017		Attorney appearance On this date Rachel Smit, Esq. added for Plaintiff Marta Romero	
12/12/2017		Attorney appearance On this date Stephen S Churchill, Esq. added for Plaintiff Marta Romero	
12/12/2017		Attorney appearance On this date Sophia L Hall, Esq. added for Plaintiff Marta Romero	
12/12/2017		Attorney appearance On this date Oren Sellstrom, Esq. added for Plaintiff Marta Romero	
12/12/2017		Attorney appearance On this date Rachel Smit, Esq. added for Plaintiff Fabiana Santos	
12/12/2017		Attorney appearance On this date Stephen S Churchill, Esq. added for Plaintiff Fabiana Santos	
12/12/2017		Attorney appearance On this date Sophia L Hall, Esq. added for Plaintiff Fabiana Santos	
12/12/2017		Attorney appearance On this date Oren Sellstrom, Esq. added for Plaintiff Fabiana Santos	
12/12/2017		Attorney appearance On this date Rachel Smit, Esq. added for Plaintiff Gladys Fuentes	
12/12/2017		Attorney appearance On this date Stephen S Churchill, Esq. added for Plaintiff Gladys Fuentes	
12/12/2017		Attorney appearance On this date Sophia L Hall, Esq. added for Plaintiff Gladys Fuentes	
12/12/2017		Attorney appearance On this date Oren Sellstrom, Esq. added for Plaintiff Gladys Fuentes	
12/12/2017		Attorney appearance On this date Rachel Smit, Esq. added for Plaintiff Santiago Cruz	
12/12/2017		Attorney appearance On this date Stephen S Churchill, Esq. added for Plaintiff Santiago Cruz	
12/12/2017		Attorney appearance On this date Sophia L Hall, Esq. added for Plaintiff Santiago Cruz	
12/12/2017		Attorney appearance On this date Oren Sellstrom, Esq. added for Plaintiff Santiago Cruz	
12/12/2017		Attorney appearance On this date Rachel Smit, Esq. added for Plaintiff Milagro Alvarez	
12/12/2017		Attorney appearance On this date Stephen S Churchill, Esq. added for Plaintiff Milagro Alvarez	
12/12/2017		Attorney appearance On this date Sophia L Hall, Esq. added for Plaintiff Milagro Alvarez	
12/12/2017		Attorney appearance On this date Oren Sellstrom, Esq. added for Plaintiff Milagro Alvarez	
12/12/2017		Early Case Management Conference Pilot Program.	



12/12/2017		Case assigned to: DCM Track F - Fast Track was added on 12/12/2017
12/12/2017	1	Original civil complaint filed. TRK
12/12/2017	2	Civil action cover sheet filed. \$25000.00
12/12/2017		Demand for jury trial entered.
02/21/2018		Attorney appearance On this date Daniel S Field, Esq. added for Defendant McCormick & Schmick Restaurant Corp doing business as McCormick k& Schmicks Seafood Restaurant
02/21/2018		Attorney appearance On this date Allison Cherundolo, Esq. added for Defendant McCormick & Schmick Restaurant Corp doing business as McCormick k& Schmicks Seafood Restaurant
02/21/2018	3	Notice of Removal to the United States District Court filed by  Defendant McCormick & Schmick Restaurant Corp d/b/a McCormick & Schmick's Seafood Restaurant (US Dist # 18-cv-10324)  Applies To: McCormick & Schmick Restaurant Corp doing business as McCormick k& Schmicks Seafood Restaurant (Defendant)
02/23/2018		REMOVED to the U.S. District Court of Massachusetts
02/23/2018		Case transferred to another court.

I HEREBY ATTEST AND CERTIFY ON

Feb. 26, 2018

THAT THE  
 FOREGOING DOCUMENT IS A FULL  
 TRUE AND CORRECT COPY OF THE  
 ORIGINAL ON FILE IN MY OFFICE,  
 AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN  
 CLERK / MAGISTRATE  
 SUFFOLK SUPERIOR CIVIL COURT  
 DEPARTMENT OF THE TRIAL COURT

BY:

Asst. Clerk



**COMMONWEALTH OF MASSACHUSETTS  
SUPERIOR COURT DEPARTMENT**

SUFFOLK, ss.

Civil Action No. 17-4020 F

MARTA ROMERO, FABIANA  
SANTOS, GLADYS FUENTES,  
SANTIAGO CRUZ, and MILAGRO  
ALVAREZ,

Plaintiffs

v.

McCORMICK & SCHMICK  
RESTAURANT CORP. d/b/a  
McCORMICK & SCHMICK'S  
SEAFOOD RESTAURANT,

Defendants

SUFFOLK SUPERIOR COURT  
CLERK OF COURT  
2017 DEC 12 A 9:05  
JULIAN J. JOSEPH  
CLERK OF COURT

**COMPLAINT AND JURY DEMAND**

**Introduction**

1. This lawsuit is brought by five Latina women who were sexually harassed while working for the McCormick & Schmick's restaurant at Faneuil Hall. The women worked in low-wage jobs, in positions such as dishwashers, cleaners, or prep cooks. All five were subjected to a humiliating and sexually offensive work environment, which included repeated incidents of unwanted fondling and other lewd behavior, including, for example, having male workers grab women's breasts or a supervisor saying words to the effect of, "this is your food" while grabbing his crotch.

2. Many of the incidents contributing to the abusive work environment were perpetrated by supervisors at McCormick & Schmick's. Other incidents of harassment

by a co-worker were reported to the restaurant's General Manager, who failed to take appropriate action. Eventually, McCormick & Schmick's Human Resources department was made of aware of Plaintiffs' experiences and conducted its own investigation. McCormick & Schmick's claims to have taken some remedial actions, even while discrediting Plaintiffs' accounts and denying that Plaintiffs suffered sexual harassment. According to its own statements, which demonstrate an utter failure to grasp the dynamics of sexual harassment, McCormick & Schmick's has been guided in part by a belief that certain conduct was unlikely to have been sexual in nature because one of the perpetrators was substantially younger than some of the Plaintiffs.

#### **Parties**

3. Plaintiff Marta Romero is an adult resident of Chelsea, Massachusetts. From 2011 until 2015, Romero was employed by McCormick & Schmick's as a dishwasher at the Faneuil Hall location.

4. Plaintiff Fabiana Santos is an adult resident of Revere, Massachusetts. From 2002 until 2015, Santos was employed by McCormick & Schmick's as a prep cook at the Faneuil Hall location.

5. Plaintiff Gladys Fuentes is an adult resident of East Boston, Massachusetts. From 2015 until 2017, Fuentes was employed by McCormick & Schmick's as a prep cook at the Faneuil Hall location.

6. Plaintiff Santiago Cruz is an adult resident of Somerville, Massachusetts. From 2004 until 2017, Cruz was employed by McCormick & Schmick's as a janitor, a dishwasher, and a prep cook at the Faneuil Hall location.

7. Plaintiff Milagro Alvarez is an adult resident of Revere, Massachusetts. From 2011 until the present, Alvarez has been employed by McCormick & Schmick's as a dishwasher at the Faneuil Hall location.

8. Defendant McCormick & Schmick Restaurant Corp. operates McCormick & Schmick's. McCormick & Schmick Restaurant Corp. is a foreign corporation that does business in Massachusetts, with a principal place of business at 1 Faneuil Hall Marketplace, Boston, Massachusetts. According to its website, McCormick & Schmick's has about 51 locations across the country. On information and belief, McCormick & Schmick's is a subsidiary or affiliated entity of Landry's, Inc., which operates more than 500 restaurants across the United States and in other countries, under brands such as Landry's Seafood, Chart House, Oceanair, Saltgrass Steak House, Bubba Gump Shrimp Co., Claim Jumper, Morton's The Steakhouse, McCormick & Schmick's, Mastro's Restaurants, and Rainforest Café.

#### **Facts**

9. On or around December 2013, Roman Buruca began working for McCormick & Schmick's at the Faneuil Hall location as a Sous Chef, which is a managerial position.

10. Jesus Vasquez Lopez began working for McCormick & Schmick's at the Faneuil Hall location in April 2014 as a dishwasher.

11. Barry Young served as the General Manager at McCormick & Schmick's Faneuil Hall location from December 2014 until June 2015.

12. Executive Chef Aaron Hopp transferred to the Faneuil Hall location in May 2015.

13. David Wilson became the General Manager at the Faneuil Hall location in June 2015.

### **Marta Romero's Experience of Sexual Harassment**

14. The first time Chef Buruca touched Ms. Romero inappropriately, at some point in 2014, she was loading dishes. He came up to her, rubbed her lower back, and put his hand around her waist. She said to him, in Spanish, words to the effect of, "Roman, what is happening?" He laughed. This happened after Chef Buruca had been working at McCormick & Schmicks for approximately six months.

15. From that point onward, Chef Buruca frequently touched Ms. Romero in inappropriate and sexual ways. When Chef Buruca saw Ms. Romero, he would put his arms around her or pat her on the bottom.

16. Chef Buruca also frequently made comments to Ms. Romero in Spanish, including words to the effect of, "Ay, here comes the one who will be mine," or words to the effect of, "Ay, how I suffer." Once he said to her words to the effect of, "Ay mami, do not lose faith, one day you will marry me."

17. In or around May 2015, Chef Buruca told Ms. Romero to go to the walk-in to organize the wines. She followed his instructions. Once there, Chef Buruca put his arms around her and touched her breast. Ms. Romero said to him, in Spanish, words to the effect of, "You do not have any respect."

18. After that incident, Chef Buruca groped Ms. Romero's breast on at least one other occasion.

19. In or around June 2015, Ms. Romero went to the bathroom to change her clothes. When she opened the door to the bathroom, Chef Buruca was standing there and he said to her, in Spanish, words to the effect of, "Enter and lock the door. Nobody is going to know anything."

20. Ms. Romero regularly witnessed Chef Buruca touching other women inappropriately while at work.

21. Ms. Romero twice attempted to report Chef Buruca's behavior to Barry Young, the General Manager, but both times Mr. Young was busy and told her to come back later.

22. The sexual harassment Ms. Romero experienced while working at McCormick & Schmick's made her feel as if she was an object, or an animal, and that Chef Buruca could do whatever he wanted to her with impunity.

23. The sexual harassment caused Ms. Romero significant emotional distress.

#### **Fabiana Santos' Experience of Sexual Harassment**

24. At some point in 2014, Ms. Santos was changing in the women's bathroom. Chef Buruca knocked on the door and said, in Spanish, words to the effect of, "It is me, I swear I am not going to tell anyone what I see inside." Ms. Santos responded, in Spanish, words to the effect of, "I will, I will tell [my husband]." She then opened the door and said to Chef Buruca words to the effect of, "Don't joke with me about this." Chef Buruca answered with words to the effect of, "Ok, mami."

25. Ms. Santos also witnessed Chef Buruca touching her female co-workers in inappropriate ways and making sexually suggestive comments. For example, she frequently witnessed Chef Buruca touching Ms. Romero inappropriately, even though Ms. Romero told him to stop. Once, she heard Chef Buruca tell Ms. Romero to go to the walk-in. Ms. Santos had a suspicious feeling about the interaction, so she went to the walk-in and opened the door. Chef Buruca was standing behind Ms. Romero, touching her up and down. Ms. Romero appeared to Ms. Santos to be very uncomfortable in the situation.

26. Ms. Santos also witnessed Chef Buruca kissing and hugging a female co-worker named Maria.

27. Mr. Vasquez, one of the dishwashers, frequently made vulgar, sexual comments to Ms. Santos in Spanish, sometimes using dirty words in her native language of Portuguese. These comments included words to the effect of, "Ay, my love, I want to touch your [vulgar word for vagina in Portuguese]" and words to the effect of, "Ay my love, I want to eat your [vulgar word for vagina in Portuguese]."

28. Sometimes Mr. Vasquez made the vulgar comments to Ms. Santos in the presence of Chef Buruca. Ms. Santos would say to Chef Buruca, in Spanish, words to the effect of, "See how he is talking to me"? But Chef Buruca always brushed these comments off. On one occasion, Chef Buruca's only response was words to the effect of, "Careful, her husband is fierce."

29. In or around December 2014, Mr. Vasquez came up to Ms. Santos and said to her, in Spanish, words to the effect of, "Hello, my love," and grabbed her left breast.

She pushed him back and said words to the effect of, "Hey, what are you doing"? He responded with words to the effect of, "Ay, I like you." She told him that this was the last time and that she would tell the office about it next time.

30. One night in or around March 2015, Mr. Vasquez said to Ms. Santos, in Spanish, words to the effect of, "I want to touch your [vulgar word for vagina in Portuguese]." She reported the incident to Chef Buruca and said, in Spanish, words to the effect of, "What is going on!" Chef Buruca responded, in Spanish, with words to the effect of, "Don't worry, he is on his final warning." But the sexually explicit comments continued.

31. Then, on or around June 6, 2015, Ms. Santos was standing next to a table, when Mr. Vasquez came up behind her and pushed her into the table with his groin. She screamed, yelling words to the effect of, "Don't touch me." She was so upset she started crying. She told Chef Buruca what had happened, and Chef Buruca told Chef Hopp. It seemed to Ms. Santos that neither of them intended to take any action, so Ms. Santos also reported the incident to Mr. Young, the General Manager. Mr. Young said that he would talk to Mr. Vasquez. Later that day, Chef Hopp came up to Ms. Santos, put his hand on her shoulder and said words to the effect of, "Sorry, Fabi, there is nothing we can do, we are very busy." Later, Chef Buruca told Ms. Santos that Mr. Young had spoken to Mr. Vasquez.

32. Chef Buruca continued to make sexually inappropriate comments even after the June incident with Mr. Vasquez. For example, Ms. Santos was present when her co-worker Ms. Cruz was standing at a table. Mr. Vasquez had bent down to get

some boxes next to her legs. Chef Buruca said, in Spanish, words to the effect of, "Take advantage of the fact that Jesus does not have his teeth and the oral sex will be very good – he will not bite you." Then he looked at Ms. Santos and said words to the effect of, "Yes or no, Fabi"? Ms. Santos responded with words to the effect of, "Really, Roman? After all that has happened between me and Jesus?"

33. The sexual harassment Ms. Santos experienced made her feel dirty, disgusted, and nauseous. She thought about it all the time.

34. The sexual harassment caused Ms. Santos significant emotional distress.

#### **Gladys Fuentes' Experience of Sexual Harassment**

35. Shortly after Ms. Fuentes began working at McCormick & Schmick's, she asked Chef Hopp if any food was available because she was hungry. Chef Hopp pointed to his groin with both hands and said, in Spanish, words to the effect of, "Eat here, this is your food."

36. Ms. Fuentes also witnessed on many occasions Chef Buruca touching her female co-workers in inappropriate ways and making sexually suggestive comments.

37. In late May 2015, during a conversation with Chef Buruca, Ms. Fuentes explained to him that she is an adult and that she does not believe that it is appropriate to have sexual relationships with people at work. He laughed at her.

38. Then, in early June 2015, Ms. Fuentes was standing at a table doing her work when Mr. Vasquez walked by her and rubbed his groin against her bottom. "You are abusive," Ms. Fuentes said to him in Spanish, or words to that effect. He responded



with words to the effect of, "I am just doing my work." Ms. Fuentes said to him, in Spanish, words to the effect of, "If you do it again, I will report it to the office."

39. On or around June 22, 2015, Ms. Fuentes was in the walk-in when Chef Hopp came up behind her and put his arms around her. He put his tongue in her ear. She said, in Spanish, words to the effect of, "Stop, are you crazy"? He responded with words to the effect of, "I am not crazy," also in Spanish.

40. About a week later, on or around June 30, 2015, Ms. Fuentes was working and when she looked up, Chef Hopp was grabbing his crotch with both hands and looking at her. She kept working. Then Chef Hopp came up behind her and rubbed his hands over her face. As he walked away, he said words to the effect of, "You don't want more hours"? Ms. Fuentes responded with words to the effect of, "No, I don't want more hours." He then said words to the effect of, "You are an asshole," in Spanish. A little later, Chef Hopp said to Ms. Fuentes words to the effect of, "Go home, go home to your house. I don't want to see your face any more. Your face is ugly." Ms. Fuentes left, even though she had more work to finish.

41. The sexual harassment made Ms. Fuentes feel humiliated, nervous, and afraid.

42. The sexual harassment caused Ms. Fuentes significant emotional distress.

#### **Santiago Cruz's Experience of Sexual Harassment**

43. Ms. Cruz was present when she and her co-worker Ms. Fuentes asked Chef Hopp if there was anything to eat because they were hungry. Chef Hopp pointed at his groin and said, in Spanish, words to the effect of, "This is your food."

44. On another occasion, Chef Hopp told Ms. Cruz words to the effect of, "Tomorrow is my day off. I have five girls in my house waiting for me."

45. Ms. Cruz also witnessed on many occasions Chef Buruca touching her female co-workers in inappropriate ways and making sexually suggestive comments.

46. For example, Ms. Cruz saw Chef Buruca hug her co-worker Maria many times. When he hugged her, he sometimes touched her breasts, even when others were watching.

47. Ms. Cruz also witnessed Chef Buruca trying to hug and touch Ms. Romero, even though Ms. Romero told him not to and was very clearly uncomfortable.

48. Around the middle of June 2015, Ms. Cruz was working at a table. Mr. Vasquez, a dishwasher, was bent over next to her, putting things away. Chef Buruca said to Ms. Cruz in Spanish, words to the effect of, "Don't be afraid. He is not going to bite you, he is only going to suck you because he does not have any teeth." It was very clear to Ms. Cruz that he was referring to oral sex. She was shocked.

49. Chef Buruca also once said to Ms. Cruz, when she was standing next to a stove, words to the effect of, "Take care so your [vulgar word for vagina] does not catch on fire," in Spanish.

50. Mr. Vasquez also made sexually inappropriate comments to Ms. Cruz. He frequently said in passing words to the effect of, "How much do you want?" It was clear to her that he was referring to paying her for sex. He even said once, in Spanish, words to the effect of, "Do you want money? I am going to pay you so you give me

your ass." She responded with words to the effect of, "No, do not joke with me like that."

51. Ms. Cruz felt humiliated by the sexually offensive work environment.

52. The sexual harassment she experienced caused Ms. Cruz significant emotional distress.

#### **Milagro Alvarez's Experience of Sexual Harassment**

53. Ms. Alvarez witnessed on many occasions Chef Buruca touching her female co-workers in inappropriate ways and making sexually suggestive comments.

54. Ms. Alvarez primarily worked in the dishwashing room with her co-worker Ms. Romero and with Mr. Vasquez. Ms. Alvarez frequently observed Chef Buruca coming to the dishwashing room to bother Ms. Romero. She witnessed him trying to put his arms around her and touch her. It was apparent to Ms. Alvarez that this treatment made Ms. Romero feel very uncomfortable.

55. Ms. Alvarez also witnessed Chef Buruca with his arms around a co-worker named Maria on many occasions.

56. As a result of the sexually offensive environment, Ms. Alvarez became afraid to go to work because she was worried that someone might try to touch her.

57. The sexual harassment caused Ms. Alvarez significant emotional distress.

#### **Human Resources Investigation**

58. On July 2, 2015, Ms. Romero, Ms. Santos, Ms. Fuentes, Ms. Cruz, and Ms. Alvarez met with the new General Manager of McCormick & Schmick's, David Wilson,

and an assistant manager, and informed them about the sexual harassment they had experienced. Mr. Wilson said that the company would investigate their complaints.

59. On information and belief, McCormick & Schmick's Human Resources staff then conducted interviews with all involved parties as part of its investigation.

60. On information and belief, McCormick & Schmick's issued a Disciplinary Action Report to Mr. Young for failing to notify Human Resources of Ms. Santos' complaint about Mr. Vasquez.

61. On information and belief, McCormick & Schmick's issued a Disciplinary Action Report to Chef Hopp for unprofessional behavior. However, according to McCormick & Schmick's, "[w]hen weighing discipline for Mr. Hopp, the Company considered that Mr. Hopp is in his mid-twenties and that several of the complaining employees were nearly 25 years older than Mr. Hopp. While the allegations were certainly plausible, in weighing all the evidence, the likelihood that Mr. Hopp interacted with the Complainant(s) in a way that was intended to offend them in a sexual manner did not seem credible."

62. On information and belief, McCormick & Schmick's suspended Chef Buruca for one week without pay. According to McCormick & Schmick's, "the Company found that Mr. Buruca used nicknames to address employees, hugged certain employees in greeting, and engaged in an incident involving horseplay with 2 employees. In addition, the Company found that Mr. Buruca provided false information to the Human Resources Department during the investigation by minimizing his role in the horseplay incident. These issues, combined with Mr. Buruca's failure to address

inappropriate behavior that he witnessed caused the Company to issue him a [Disciplinary Action Report] and suspend him for 1 week without pay.”

63. On information and belief, McCormick & Schmick’s terminated Mr. Vasquez’s employment in July 2015 because of his “lack of credibility and unprofessional demeanor during questioning, combined with his prior warnings for unprofessional behavior.”

64. Despite the disciplinary actions taken, McCormick & Schmick’s has vehemently denied that the conduct of Chef Hopp, Chef Buruca, and Mr. Vasquez constituted sexual harassment.

#### **Exhaustion of Administrative Remedies**

65. On or about July 21, 2015, Plaintiffs filed complaints with the Massachusetts Commission Against Discrimination and the United States Equal Employment Opportunity Commission (“EEOC”). Ultimately, the EEOC took the lead role in investigating the case. On or about May 23, 2017, following its investigation, the EEOC determined that there was reasonable cause to believe that McCormick & Schmick’s discriminated against the Plaintiffs on the basis of their sex.

#### **Count I: Discrimination M.G.L. c. 151B**

66. Plaintiffs allege and incorporate by reference paragraphs 1 to 65.

67. The conduct of McCormick & Schmick’s constitutes unlawful discrimination against the Plaintiffs in violation of M.G.L. c. 151B, § 4. The conduct included sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature. The Plaintiffs’ submission to or rejection of such advances,

requests, or conduct was made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions. In addition, such advances, requests, or conduct had the purpose or effect of unreasonably interfering with the Plaintiffs' work performance by creating an intimidating, hostile, humiliating, or sexually offensive work environment. The conduct was subjectively and objectively offensive, and all of the conduct was unwelcome to Plaintiffs. With respect to the conduct of non-supervisory men, McCormick & Schmick's knew or should have known of the harassment and failed to take prompt and effective remedial action. This claim is brought pursuant to M.G.L. c. 151B, § 9.

WHEREFORE, Plaintiffs respectfully request this Court to:

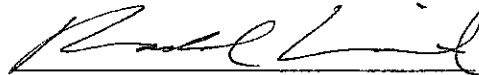
- A. Award damages to Plaintiffs for their emotional and mental distress;
- B. Award punitive damages to Plaintiffs;
- C. Award attorneys' fees and costs to Plaintiffs;
- D. Award pre- and post-judgment interest to Plaintiffs; and
- E. Grant such other relief as is just and proper.

#### **JURY DEMAND**

Plaintiffs request a trial by jury.

MARTA ROMERO, FABIANA SANTOS,  
GLADYS FUENTES, SANTIAGO CRUZ,  
and MILAGRO ALVAREZ,

By their attorneys,



Stephen Churchill, BBO #564158

Rachel Smit, BBO #688294

FAIR WORK, P.C.

192 South Street, Suite 450

Boston, MA 02111

(617) 607-3260

steve@fairworklaw.com

rachel@fairworklaw.com

Oren Sellstrom, BBO #569045

Sophia Hall, BBO #684541

LAWYERS' COMMITTEE FOR CIVIL RIGHTS  
AND ECONOMIC JUSTICE

61 Batterymarch Street, 5th Floor

Boston, MA 02110

(617) 482-1145

osellstrom@lawyerscom.org

shall@lawyerscom.org

Dated: December 12, 2017

I HEREBY ATTEST AND CERTIFY ON  
Feb. 26, 2018

THAT THE  
FOREGOING DOCUMENT IS A FULL  
TRUE AND CORRECT COPY OF THE  
ORIGINAL ON FILE IN MY OFFICE,  
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN  
CLERK / MAGISTRATE  
SUFFOLK SUPERIOR CIVIL COURT  
DEPARTMENT OF THE TRIAL COURT

BY:



Asst. Clerk

2

CIVIL ACTION COVER SHEET		DOCKET NUMBER <b>17-40207</b>	Trial Court of Massachusetts The Superior Court	
PLAINTIFF(S): <u>Marta Romero, Fabiana Santos, Gladys Fuentes, Santiago Cruz, and</u>			COUNTY <u>Suffolk</u>	
ADDRESS: <u>Milagro Alvarez</u>				
DEFENDANT(S): <u>McCormick &amp; Schmick Restaurant Corp. d/b/a McCormick &amp; Schmick's</u>				
Seafood Restaurant				
ATTORNEY: <u>Rachel Smit and Stephen Churchill, Fair Work, P.C.</u>				
ADDRESS: <u>192 South Street, Suite 450, Boston, MA 02111</u>			ADDRESS:	
<u>Sophia Hall and Oren Sellstrom, Lawyers' Committee for Civil Rights and Economic Justice</u>				
<u>81 Batteryman Street, 5th Floor, Boston, MA 02110</u>				
BBO: <u>Smit, #688294; Churchill, #564158; Hall, #684641; Sellstrom, #569045</u>				
TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)				
CODE NO. <u>B22</u>	TYPE OF ACTION (specify) <u>M.G.L. c. 151B</u>	TRACK <u>F</u>	HAS A JURY CLAIM BEEN MADE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
If "Other" please describe:				
STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A				
The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.				
TORT CLAIMS (attach additional sheets as necessary)				
A. Documented medical expenses to date:				
1. Total hospital expenses .....				\$
2. Total doctor expenses .....				\$
3. Total chiropractic expenses .....				\$
4. Total physical therapy expenses .....				\$
5. Total other expenses (describe below) .....				\$
Subtotal (A):				\$
B. Documented lost wages and compensation to date .....				\$
C. Documented property damages to date .....				\$
D. Reasonably anticipated future medical and hospital expenses .....				\$
E. Reasonably anticipated lost wages .....				\$
F. Other documented items of damages (describe below) .....				\$
G. Briefly describe plaintiff's injury, including the nature and extent of injury:				
TOTAL (A-F):				\$ <u>\$25,000 +</u>
CONTRACT CLAIMS (attach additional sheets as necessary)				
Provide a detailed description of claims(s):				
TOTAL:				\$
Signature of Attorney/Pro Se Plaintiff: X <u>Rachel Smit</u>			Date: <u>12/12/17</u>	
RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.				
None				
CERTIFICATION PURSUANT TO SJC RULE 1:18				
I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.				
Signature of Attorney of Record: X <u>Rachel Smit</u>			Date: <u>12/12/17</u>	

I HEREBY ATTEST AND CERTIFY ON  
**Feb. 26, 2018**, THAT THE  
 FOREGOING DOCUMENT IS A FULL  
 TRUE AND CORRECT COPY OF THE  
 ORIGINAL ON FILE IN MY OFFICE,  
 AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN  
 CLERK / MAGISTRATE  
 SUFFOLK SUPERIOR CIVIL COURT  
 DEPARTMENT OF THE TRIAL COURT

BY: Margaret M. Sullivan

Asst. Clerk



**COMMONWEALTH OF MASSACHUSETTS**

**SUFFOLK, SS.**

**SUPERIOR COURT  
NO. 17-4020F**

**MARTA ROMERO, FABIANA SANTOS,  
GLADYS FUENTES, SANTIAGO CRUZ,  
and MILAGRO ALVAREZ,**

**Plaintiffs,**

**v.**

**McCORMICK & SCHMICK  
RESTAURANT CORP. d/b/a McCORMICK  
& SCHMICK'S SEAFOOD RESTAURANT,**

**Defendant.**

**NOTICE OF FILING OF REMOVAL  
OF ACTION TO FEDERAL COURT**

US Dist # 18-CV-10324

SUFFOLK SUPERIOR COURT  
CIVIL CLERK'S OFFICE  
2018 FEB 21 A 9:13  
PROCLAMATION  
CLERK / MAGISTRATE

TO: Civil Clerk of the Superior Court  
Suffolk County Superior Court  
3 Pemberton Square  
Boston, Massachusetts 02108

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1441 and 1446, a Notice of Removal (with attachments thereto) and a Notice to Counsel of Removal has been filed on this day with the United States District Court for the District of Massachusetts. Copies of said Notice of Removal and Notice to Counsel are attached hereto as Exhibits A & B, respectively. This Court is respectfully requested to proceed no further in this action, unless and until such time as the action may be remanded by order of the United States District Court.

Dated: February 20, 2018

Respectfully submitted,

**MCCORMICK & SCHMICK  
RESTAURANT CORP. D/B/A  
MCCORMICK & SCHMICK'S  
SEAFOOD RESTAURANT**

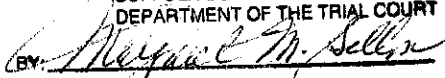
By its attorneys, 

Daniel S. Field (BBO #560096)  
Allison B. Cherundolo (BBO #681632)  
**MORGAN, BROWN & JOY, LLP**  
200 State Street, Floor 11  
Boston, MA 02109-2605  
T: (617) 523-6666  
F: (617) 367-3125  
E: [dfield@morganbrown.com](mailto:dfield@morganbrown.com)  
E: [acherundolo@morganbrown.com](mailto:acherundolo@morganbrown.com)

Dated: February 20, 2018

I HEREBY ATTEST AND CERTIFY ON  
Feb. 26, 2018, THAT THE  
FOREGOING DOCUMENT IS A FULL  
TRUE AND CORRECT COPY OF THE  
ORIGINAL ON FILE IN MY OFFICE,  
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN  
CLERK / MAGISTRATE  
SUFFOLK SUPERIOR CIVIL COURT  
DEPARTMENT OF THE TRIAL COURT

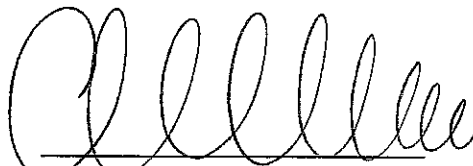
BY:   
Asst. Clerk

**CERTIFICATE OF SERVICE**

I, Allison B. Cherundolo, certify that a copy of the foregoing document was served upon counsel for Plaintiff by Fedex this 20<sup>th</sup> day of February, 2018.

Stephen Churchill, Esq.  
Rachel Smit, Esq.  
FAIR WORK, P.C.  
192 South Street, Suite 450  
Boston, MA 02111

Oren Sellstrom, Esq.  
Sophia Hall, Esq.  
LAWYERS' COMMITTEE FOR CIVIL RIGHTS  
AND ECONOMIC JUSTICE  
61 Batterymarch Street, 5<sup>th</sup> Floor  
Boston, MA 02110



Allison B. Cherundolo

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MARTA ROMERO, FABIANA SANTOS,  
GLADYS FUENTES, SANTIAGO CRUZ,  
and MILAGRO ALVAREZ,

Plaintiffs,

v.

McCORMICK & SCHMICK  
RESTAURANT CORP. d/b/a McCORMICK  
& SCHMICK'S SEAFOOD RESTAURANT,

Defendant.

C.A. No. 18-10324

NOTICE OF REMOVAL

TO: The Honorable Judges of the  
United States District Court  
District of Massachusetts

Petitioner McCormick & Schmick Restaurant Corp., Defendant in the above entitled  
action states:

1. Defendant desires to exercise its rights under the provisions of 28 U.S.C. § 1441, *et seq.*, to remove this action from the Superior Court for Suffolk County, Massachusetts, in which said cause is now pending under the name and style, *Marta Romero, Fabiana Santos, Gladys Fuentes, Santiago Cruz, and Milagro Alvarez v. McCormick & Schmick Restaurant Corp. d/b/a McCormick & Schmick's Seafood Restaurant*, Civil Action No. 17-4020F. Defendant was served with a copy of the Complaint and Summons on February 1, 2018. A copy of the documents served are attached hereto as Exhibit A.

2. The above-described action is one of which this court has original jurisdiction under the provisions of 28 U.S.C. § 1332, and is one which may be removed to this court by

SUFFOLK SUPERIOR COURT  
CIVIL ACTION NO. 17-4020F  
2018 FEB 21 A 9:13  
RECEIVED

Defendant, pursuant to the provisions of 28 U.S.C. § 1441, wherein it is a civil action wherein the matter in controversy exceeds the sum or the value of \$75,000.00 exclusive of interest and costs, and is between citizens of different states. Specifically, Plaintiffs are citizens of the Commonwealth of Massachusetts, while Defendant maintains its principal place of business in the State of Texas and is incorporated under the laws of the State of Delaware.

3. Plaintiffs are current and former employees of Defendant. Each Plaintiff alleges that she is entitled to damages under M.G.L. c. 151B for statutory violations by Defendant sounding in sex discrimination and sexual harassment. Through this action, in addition to other categories, Plaintiffs each seek to recover punitive damages, damages for their mental and emotional distress, and attorneys' fees. Upon information and belief, each plaintiff's potential recovery and/or the potential recovery of at least one plaintiff will result in an amount in controversy in excess of \$75,000.00.

4. Defendant is filing this notice within thirty (30) days of service of the Summons and Complaint, as required by 28 U.S.C. § 1446.

5. Defendant will file a Notice of Filing of Removal of Action to Federal Court and a copy of this Notice of Removal with the Clerk, Suffolk County Superior Court, Suffolk County Courthouse, 3 Pemberton Square, Boston, Massachusetts 02108, pursuant to 28 U.S.C. § 1446(d), a copy of which is attached hereto as Exhibit B.

6. Defendant will serve written Notice to Counsel of Removal of Action to Federal Court, and a copy of this Notice of Removal on Plaintiffs' counsel pursuant to 28 U.S.C. § 1446(d), a copy of which is attached hereto as Exhibit C.

7. For the reasons stated above, this action is removable to this Court pursuant to the provisions of 28 U.S.C. § 1441.

WHEREFORE, Defendant prays that the above action now pending against it in the Superior Court for Suffolk County, Massachusetts be removed therefrom to this Court.

Respectfully submitted,

**MCCORMICK & SCHMICK  
RESTAURANT CORP. D/B/A  
MCCORMICK & SCHMICK'S  
SEAFOOD RESTAURANT**

By its attorneys,

/s/ Daniel S. Field

Daniel S. Field (BBO #560096)

Allison B. Cherundolo (BBO #681632)

**MORGAN, BROWN & JOY, LLP**

200 State Street, Floor 11

Boston, MA 02109-2605

T: (617) 523-6666

F: (617) 367-3125

E: [dfield@morganbrown.com](mailto:dfield@morganbrown.com)

E: [acherundolo@morganbrown.com](mailto:acherundolo@morganbrown.com)

Dated: February 20, 2018

**CERTIFICATE OF SERVICE**

I, Allison B. Cherundolo, certify that a copy of the foregoing document was served upon counsel for Plaintiff by Fedex this 20<sup>th</sup> day of February, 2018.

Stephen Churchill  
Rachel Smit  
FAIR WORK, P.C.  
192 South Street, Suite 450  
Boston, MA 02111

Oren Sellstrom  
Sophia Hall  
LAWYERS' COMMITTEE FOR CIVIL RIGHTS  
AND ECONOMIC JUSTICE  
61 Battery March Street, 5<sup>th</sup> Floor  
Boston, MA 02110

/s/ Allison B. Cherundolo  
Allison B. Cherundolo, Esq.

## Commonwealth of Massachusetts

SUFFOLK, SS.

TRIAL COURT OF THE COMMONWEALTH  
SUPERIOR COURT DEPARTMENT  
CIVIL DOCKET NO. 17-4020 FRomero et al. PLAINTIFF(S),

v.

McCormick + Schmick's DEFENDANT(S)  
Restaurant Corp.

## SUMMONS

THIS SUMMONS IS DIRECTED TO McCormick + Schmick's Restaurant Corp. (Defendant's name)

You are being sued. The Plaintiff(s) named above has started a lawsuit against you. A copy of the Plaintiff's Complaint filed against you is attached to this summons and the original complaint has been filed in the Suffolk Court. YOU MUST ACT PROMPTLY TO PROTECT YOUR RIGHTS.

1. You must respond to this lawsuit in writing within 20 days. If you do not respond, the court may decide the case against you and award the Plaintiff everything asked for in the complaint. You will also lose the opportunity to tell your side of the story. You must respond to this lawsuit in writing even if you expect to resolve this matter with the Plaintiff. If you need more time to respond, you may request an extension of time in writing from the Court.
2. How to Respond. To respond to this lawsuit, you must file a written response with the court and mail a copy to the Plaintiff's Attorney (or the Plaintiff, if unrepresented). You can do this by:
  - a. Filing your signed original response with the Clerk's Office for Civil Business, Suffolk Court, 3 Pemberton St., 12<sup>th</sup> Floor, Boston, 02108 (address), by mail or in person, AND
  - b. Delivering or mailing a copy of your response to the Plaintiff's Attorney/Plaintiff at the following address: Fairbank, P.C. 192 South St, Ste 450 Boston, MA 02111
3. What to include in your response. An "Answer" is one type of response to a Complaint. Your Answer must state whether you agree or disagree with the fact(s) alleged in each paragraph of the Complaint. Some defenses, called affirmative defenses, must be stated in your Answer or you may lose your right to use them in court. If you have any claims against the Plaintiff (referred to as counterclaims) that are based on the same facts or transaction described in the Complaint, then you must include those claims in your Answer. Otherwise, you may lose your right to sue the Plaintiff about anything related to this lawsuit. If you want to have your case heard by a jury, you must specifically request a jury trial in your Answer or in a written demand for a jury trial that you must send to the other side and file with the court no more than 10 days after sending your Answer. You can also respond to a Complaint by filing a "Motion to Dismiss," if you believe that the complaint is legally invalid or legally insufficient. A Motion to Dismiss must be based on one of the legal deficiencies or reasons listed under Mass. R. Civ. P. 12. If you are filing a Motion to Dismiss, you must also comply with the filing procedures for "Civil Motions" described in the rules of the Court in which the complaint was filed, available at www.mass.gov/courts/case-legal-res/rules of court.

Joseph P. Casey

Attending Copy Allocated

Deputy Sheriff Suffolk County

2-1-18



**COMMONWEALTH OF MASSACHUSETTS  
SUPERIOR COURT DEPARTMENT**

SUFFOLK, ss.

Civil Action No. 1784CV04020

MARTA ROMERO, FABIANA  
SANTOS, GLADYS FUENTES,  
SANTIAGO CRUZ, and MILAGRO  
ALVAREZ,

Plaintiffs

v.

McCORMICK & SCHMICK  
RESTAURANT CORP. d/b/a  
McCORMICK & SCHMICK'S  
SEAFOOD RESTAURANT,

Defendants

**PLAINTIFFS' FIRST SET OF INTERROGATORIES**

1. With respect to any witness interviewed by Defendant or its agents in connection with this case (including the prior proceedings at the Massachusetts Commission Against Discrimination and the Equal Employment Opportunity Commission), please state the following information.

- (a) The witness's name;
- (b) The date(s) of the interview(s); and
- (c) A summary of the information provided by the witness.

2. Who is the "independent eyewitness identified during our investigation" mentioned in the defendant's press statement on December 13, 2017?

3. With respect to any complaint made during the five years preceding the complaint based either on (i) sexual harassment, or (ii) behavioral issues, please state the following information.

- (a) The complaining employee's name;
- (b) The employee about whom the complaint was made;
- (c) A description of the incident(s) about which the complaint was made;
- (d) Any actions, including disciplinary action, taken by Defendant in response to the complaint;
- (e) Who was involved in recommending or approving the actions taken by Defendant; and
- (f) The basis for the actions, including disciplinary action, taken.

4. With respect to all disciplinary action taken against Aaron Hopp, please state, in as much detail as possible, the following information:

- (a) Who made the decision to discipline Aaron Hopp;
- (b) The basis for that decision;
- (c) All information relied on when making that decision;
- (d) Who was consulted, prior to the disciplinary action, about the decision;
- (e) Who provided information that contributed to the decision; and
- (f) Why a greater or lesser form of disciplinary action was not taken.

5. With respect to all disciplinary action taken against Roman Buruca, please state, in as much detail as possible, the following information:

- (a) Who made the decision to discipline Roman Buruca;
- (b) The basis for that decision;
- (c) All information relied on when making that decision;
- (d) Who was consulted, prior to the disciplinary action, about the decision;
- (e) Who provided information that contributed to the decision; and
- (f) Why a greater or lesser form of disciplinary action was not taken.

6. With respect to all disciplinary action taken against Jesus Vasquez, please state, in as much detail as possible, the following information:

- (a) Who made the decision to discipline Jesus Vasquez;
- (b) The basis for that decision;
- (c) All information relied on when making that decision;
- (d) Who was consulted, prior to the disciplinary action, about the decision;
- (e) Who provided information that contributed to the decision; and
- (f) Why a greater or lesser form of disciplinary action was not taken.

7. With respect to all disciplinary action taken against Barry Young, please state, in as much detail as possible, the following information:

- (a) Who made the decision to discipline Barry Young;
- (b) The basis for that decision;
- (c) All information relied on when making that decision;
- (d) Who was consulted, prior to the disciplinary action, about the decision;
- (e) Who provided information that contributed to the decision; and
- (f) Why a greater or lesser form of disciplinary action was not taken.

MARTA ROMERO, FABIANA SANTOS,  
GLADYS FUENTES, SANTIAGO CRUZ,  
and MILAGRO ALVAREZ,

By their attorneys,



Stephen Churchill, BBO #564158

Rachel Smit, BBO #688294

FAIR WORK, P.C.

192 South Street, Suite 450

Boston, MA 02111

(617) 607-3260

steve@fairworklaw.com

rachel@fairworklaw.com

Oren Sellstrom, BBO #569045

Sophia Hall, BBO #684541

LAWYERS' COMMITTEE FOR CIVIL RIGHTS  
AND ECONOMIC JUSTICE

61 Batterymarch Street, 5th Floor

Boston, MA 02110

(617) 482-1145

osellstrom@lawyerscom.org

shall@lawyerscom.org

Dated: January 31, 2018

**COMMONWEALTH OF MASSACHUSETTS  
SUPERIOR COURT DEPARTMENT**

SUFFOLK, ss.

Civil Action No. 1784CV04020

\_\_\_\_\_  
MARTA ROMERO, FABIANA  
SANTOS, GLADYS FUENTES,  
SANTIAGO CRUZ, and MILAGRO  
ALVAREZ,

Plaintiffs

v.

McCORMICK & SCHMICK  
RESTAURANT CORP. d/b/a  
McCORMICK & SCHMICK'S  
SEAFOOD RESTAURANT,

Defendants  
\_\_\_\_\_

**PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

1. All witness statements (including draft or final statements) concerning the issues in this case.
2. All communications with actual or potential witnesses concerning the issues in this case.
3. All investigation reports concerning the issues in this case.
4. All documents concerning any complaint made in 2012 - present, inclusive, by any employee about sexual harassment or unprofessional behavior at the Faneuil Hall location.
5. All emails, text messages, voicemail messages, notes, or other documents concerning Aaron Hopp, Roman Buruca, Jesus Vasquez, or Barry Young that were

drafted or created between January 1, 2015 and December 31, 2017, inclusive, concerning any alleged discrimination, harassment, or behavioral issues.

6. With respect to any instances of employee discipline at the Faneuil Hall location between January 2012 and December 2018, inclusive, based on (i) complaints of sexual harassment against that employee, or (ii) complaints of behavioral issues, all documents concerning the disciplinary action.

7. All documents concerning Defendant's sexual harassment policies and procedures.

8. All employee handbooks or manuals.

9. All documents provided to employees by Defendant at the Faneuil Hall that were made available in Spanish or Portuguese.

10. The personnel files of the plaintiffs.

11. The personnel file of Aaron Hopp.

12. The personnel file of Roman Buruca.

13. The personnel file of Jesus Vasquez.

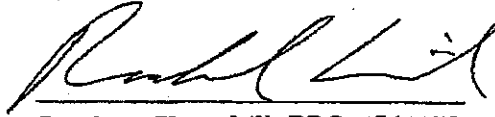
14. The personnel file of Barry Young.

15. All other documents concerning Plaintiffs' employment or the allegations in this case.

16. All documents upon which Defendant intends to rely in defending against Plaintiffs' claims.

MARTA ROMERO, FABIANA SANTOS,  
GLADYS FUENTES, SANTIAGO CRUZ,  
and MILAGRO ALVAREZ,

By their attorneys,

A handwritten signature in black ink, appearing to read "Stephen Churchill", written over a horizontal line.

Stephen Churchill, BBO #564158

Rachel Smit, BBO #688294

FAIR WORK, P.C.

192 South Street, Suite 450

Boston, MA 02111

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steve@fairworklaw.com

rachel@fairworklaw.com

Oren Sellstrom, BBO #569045

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LAWYERS' COMMITTEE FOR CIVIL RIGHTS  
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Boston, MA 02110

(617) 482-1145

osellstrom@lawyerscom.org

shall@lawyerscom.org

Dated: January 31, 2018



**COMMONWEALTH OF MASSACHUSETTS**

**SUFFOLK, SS.**

**SUPERIOR COURT  
NO. 17-4020F**

**MARTA ROMERO, FABIANA SANTOS,  
GLADYS FUENTES, SANTIAGO CRUZ,  
and MILAGRO ALVAREZ,**

**Plaintiffs,**

**v.**

**McCORMICK & SCHMICK  
RESTAURANT CORP. d/b/a McCORMICK  
& SCHMICK'S SEAFOOD RESTAURANT,**

**Defendant.**

**NOTICE TO COUNSEL OF  
REMOVAL OF ACTION TO  
FEDERAL COURT**

TO: Stephen Churchill  
Rachel Smit  
FAIR WORK, P.C.  
192 South Street, Suite 450  
Boston, MA 02111

Oren Sellstrom  
Sophia Hall  
LAWYERS' COMMITTEE FOR CIVIL RIGHTS  
AND ECONOMIC JUSTICE  
61 Batterymarch Street, 5<sup>th</sup> Floor  
Boston, MA 02110

PLEASE TAKE NOTICE that Defendant McCormick & Schmick Restaurant Corp., in the above-captioned matter, has on the 20th Day of February 2018 filed in the United States District Court of the District of Massachusetts, its Notice of Removal of the above-styled action from the Superior Court, Suffolk County, Massachusetts (a copy of said Notice is attached hereto) to the United States District Court for the District of Massachusetts, together with copies of the Complaint filed by the Plaintiffs in the Superior Court, Suffolk County, Massachusetts.

You are also advised that said Defendant, upon filing said Notice, filed a Notice of Filing Removal of Action to Federal Court with the Clerk, Superior Court for Suffolk County, Massachusetts and attached thereto copies of the following: (1) Notice of Removal with exhibits attached thereto; and (2) the Notice to Counsel of Removal of Action to Federal Court.

Such action has effected the removal of this action to the United States District Court for the District of Massachusetts, in accordance with the provisions of 28 U.S.C. §§ 1441 and 1446 and no further proceedings may be had in this state court action.

Dated: February 20, 2018

Respectfully submitted,

**MCCORMICK & SCHMICK  
RESTAURANT CORP. D/B/A  
MCCORMICK & SCHMICK'S  
SEAFOOD RESTAURANT**

By its attorneys,



Daniel S. Field (BBO #560096)

Allison B. Cherundolo (BBO #681632)

**MORGAN, BROWN & JOY, LLP**

200 State Street, Floor 11

Boston, MA 02109-2605

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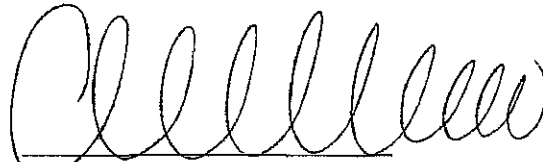
Dated: February 20, 2018

**CERTIFICATE OF SERVICE**

I, Allison B. Cherundolo, certify that a copy of the foregoing document was served upon counsel for Plaintiff by Fedex this 20<sup>th</sup> day of February, 2018.

Stephen Churchill, Esq.  
Rachel Smit, Esq.  
FAIR WORK, P.C.  
192 South Street, Suite 450  
Boston, MA 02111

Oren Sellstrom, Esq.  
Sophia Hall, Esq.  
LAWYERS' COMMITTEE FOR CIVIL RIGHTS  
AND ECONOMIC JUSTICE  
61 Batterymarch Street, 5<sup>th</sup> Floor  
Boston, MA 02110

  
Allison B. Cherundolo

## CIVIL COVER SHEET

JS 44 (Rev. 06/17)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Marta Romero, Fabiana Santos, Gladys Fuentes, Santiago Cruz & Milagro Alvarez

(b) County of Residence of First Listed Plaintiff Suffolk

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Stephen Churchill, FAIR WORK, P.C., 129 South Street, Suite 450, Boston, MA 02111, (617) 607-3260; Oren Sellstrom, LAWYERS' COMMITTEE FOR CIVIL RIGHTS, 61 Battery March St, Boston, MA

**DEFENDANTS**

McCormick & Schmick Restaurant Corp.

County of Residence of First Listed Defendant N/A

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

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**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609				

**V. ORIGIN** (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. Section 1332

Brief description of cause:

Plaintiffs allege sex discrimination and sexual harassment.

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

**FOR OFFICE USE ONLY**

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Romero v. McCormick & Schmick Restaurant Corp.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

☐

I. 410, 441, 470, 535, 830\*, 835\*, 891, 893, 895, R.23, REGARDLESS OF NATURE OF SUIT.

☒

II. 110, 130, 140, 160, 190, 196, 230, 240, 290, 320, 362, 370, 371, 380, 430, 440, 442, 443, 445, 446, 448, 710, 720, 740, 790, 820\*, 840\*, 850, 870, 871.

☐

III. 120, 150, 151, 152, 153, 195, 210, 220, 245, 310, 315, 330, 340, 345, 350, 355, 360, 365, 367, 368, 375, 376, 385, 400, 422, 423, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 625, 690, 751, 791, 861-865, 890, 896, 899, 950.

\*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐NO ☒7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☒NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☒Central Division ☐Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐Central Division ☐Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Allison B. CherundoloADDRESS Morgan, Brown & Joy, LLP; 200 State Street, 11th Floor, Boston, MA 02109TELEPHONE NO. 617-523-6666